

United States Senate

WASHINGTON, DC 20510

January 11, 2024

Mr. Gary Gensler
Chair
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Chair Gensler:

We write with deep concerns regarding a potential upcoming initial public offering (IPO) by JBS S.A. (JBS). As the U.S. Securities and Exchange Commission (SEC) considers this proposal, we urge the SEC to protect the integrity of U.S. capital markets and the legal rights of U.S. investors by exposing the risks that JBS poses to potential shareholders, including its track record of corruption, human rights abuses, monopolization of the meatpacking market, as well as environmental risks. More specifically, we respectfully request that the SEC staff closely examine JBS's draft filing to ensure that the disclosures contained therein—and in particular the disclosures concerning the subjects noted below—are neither incomplete nor inaccurate in any material respect. In addition, while competition is beyond the SEC's remit, we urge the SEC to consider how JBS's improper access to U.S. capital markets might strengthen its market position, enhance its ability to engage in anticompetitive conduct, and adversely impact U.S. farmers and ranchers. Consistent with the SEC's powers and responsibilities, should JBS fail to cure any such disclosure deficiencies, we would ask that the SEC decline to declare the company's registration effective.

Over twelve years, JBS engaged in an extensive, international bribery corruption scheme as well as illicit activity in the United States. In 2020, JBS holding company J&F Investimentos S.A. (J&F), pleaded guilty and agreed to pay a criminal penalty of more than \$256 million for engineering an extensive political bribery effort, targeting 1,800 government officials in Brazil.¹

In that same year, the SEC fined J&F, and JBS owners Joesley and Wesley Batista, \$27 million for an extensive bribery scheme to acquire U.S. meat producer Pilgrim's Pride in 2009. In the words of Charles Cain, Chief of SEC Enforcement Division's FCPA Unit: "Engaging in bribery to finance their expansion into the U.S. markets and then continuing to engage in bribery while occupying senior board positions at Pilgrim's reflects a profound failure to exercise good corporate governance. This brazen misconduct flies in the face of what investors should expect from those occupying the role of an officer or director of a U.S. issuer."² Now a subsidiary of JBS, Pilgrim's Pride has been found guilty of anticompetitive conduct since its acquisition. In 2021, it pled guilty and has been sentenced to pay about \$107 million in criminal fines for

¹ Press Release, United States Attorney's Office (October 14, 2020), <https://www.justice.gov/usao-edny/pr/jf-investimentos-sa-pleads-guilty-and-agrees-pay-more-256-million-criminal-fines>

² Press Release, U.S. Securities and Exchange Commission (October 14, 2020), <https://www.sec.gov/news/press-release/2020-254>

conspiracy to fix prices and rig bids for broiler chicken products.³ In total, JBS estimates its current criminal exposure at \$463.5 million⁴, as well as \$2.1 billion for ongoing civil, tax, and labor litigation claims.⁵ These are startling figures for a company that now seeks to avail itself of the privilege of having its shares traded on the New York Stock Exchange.

We are also deeply concerned that the proposed listing would allow minority shareholders to convert no more than 55% of their Class A shares to Class B voting shares, whereas members of the Batista family would be able to convert 100% of their shares. Indeed, the proposed structure would make Class B shares unlisted, and JBS' Board could refuse to allow the conversion of Class B shares to Class A shares, meaning that investors who held onto their voting rights would be unable to sell those shares.

The structure of the proposed offering attempts to ensure JBS would be exempt from U.S. laws. In its prospectus, JBS says, "*We are a 'foreign private issuer' under U.S. securities laws and, as a result, are subject to disclosure obligations that are different from those applicable to U.S. domestic registrants listed on the NYSE.*"⁶ As such, U.S. investors' legal options would be substantially limited in the event majority shareholders acted in a manner that conflicted with or harmed their interests.

Additionally, JBS has a long history of misleading investors in its corporate filings by exaggerating environmental stewardship and downplaying other risks. JBS faces a pending SEC whistleblower complaint for making inaccurate claims when selling approximately \$3 billion of "Sustainability Linked Bonds" to U.S. investors. The whistleblower complaint cites evidence that JBS violated multiple antifraud provisions of the federal securities laws, including Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder; Section 13(a) of the Exchange Act and Rules 13a-1, 13a-16 and 12b-20 thereunder; as well as Section 17(a) of the Securities Act of 1933.⁷

Dozens of journalistic and NGO reports have shown that JBS is linked to more destruction of forests and other ecosystems than any other company in Brazil. The company has made repeated claims that it will eliminate deforestation but has not taken meaningful steps to do so, despite its direct knowledge of extensive deforestation in its supply chain. The U.S. Senate Finance Committee recently conducted an investigation into JBS' ties to deforestation; Chair Ron Wyden found that the company was "turning a blind eye as parts of its supply chain burn down the

³ Press Release, United States Department of Justice (February 23, 2021), <https://www.justice.gov/opa/pr/one-nation-s-largest-chicken-producers-pleads-guilty-price-fixing-and-sentenced-107-million>

⁴ JBS, F4 IPO filing (July 12, 2023) http://archive.fast-edgar.com/20230712/A82Z822DZZ2R8JZK22ZK2ZYRT8K9ZZ22ZS5G/#rom419054_7. See section "Legal Proceedings"

⁵ JBS, F4 IPO filing (July 12, 2023), http://archive.fast-edgar.com/20230712/A82Z822DZZ2R8JZK22ZK2ZYRT8K9ZZ22ZS5G/#rom419054_7. See section "Other proceedings with possible outcome"

⁶ JBS, F4 IPO filing (July 12, 2023), http://archive.fast-edgar.com/20230712/A82Z822DZZ2R8JZK22ZK2ZYRT8K9ZZ22ZS5G/#rom419054_7. See section "Other proceedings with possible outcome"

⁷ Press Release, Mighty Earth (January 18, 2023) <https://www.mightyearth.org/whistleblower-complaint-to-the-securities-and-exchange-commission-against-jbs/>

Amazon.”⁸ At least six major supermarket chains have announced that they would no longer purchase JBS meat from Brazil because of its links to deforestation and others have curtailed purchases.

Approval of JBS’ proposed listing would subject U.S. investors to risk from a company with a history of blatant, systemic corruption, and further entrench its monopoly power and embolden its monopoly practices. We urge the SEC to consider these issues as it evaluates JBS’ proposed listing.

Sincerely,



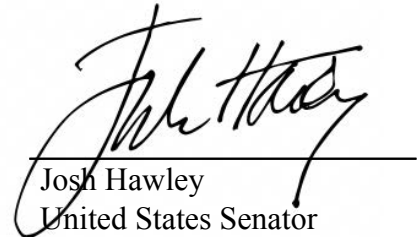
Cory A. Booker
United States Senator



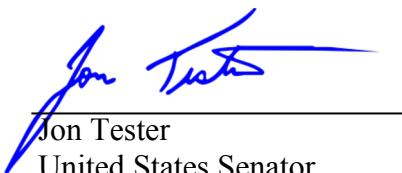
Marco Rubio
United States Senator



Sherrod Brown
United States Senator



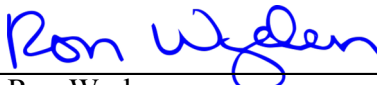
Josh Hawley
United States Senator



Jon Tester
United States Senator



John Barrasso
United States Senator



Ron Wyden
United States Senator

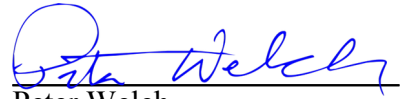


Richard Blumenthal
United States Senator

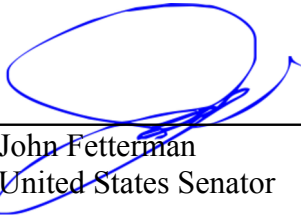
⁸ US Senate Committee on Finance, “Wyden Hearing Statement on Cattle Supply Chains, Amazon Deforestation”, June 22, 2023, available at: <https://www.finance.senate.gov/chairmans-news/wyden-hearing-statement-on-cattle-supply-chains- amazon-deforestation>



Chris Van Hollen
United States Senator



Peter Welch
United States Senator



John Fetterman
United States Senator



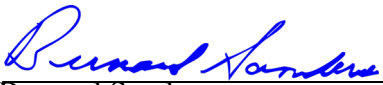
Elizabeth Warren
United States Senator



Robert Menendez
United States Senator



Christopher S. Murphy
United States Senator



Bernard Sanders
United States Senator